

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CESAR MOREIRA, MARTIN CISNEROS, FREDIS GOMEZ,
LUIS M. RAMIREZ, AND ROBERTO CONTRERAS
individually and on behalf of others
similarly situated,

Civil Action No.: 13 CV 2640

Plaintiffs,

OFFER OF JUDGMENT

-against-

SHERWOOD LANDSCAPING INC.,
MAIN STREET NURSERY, FLORIST AND LANDSCAPING
ROBERT MCKEAN,
in his individual capacity,

Defendants.
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Pursuant to Federal Rule of Civil Procedure 68, Defendants, SHERWOOD LANDSCAPING INC. d/b/a MAIN STREET NURSERY i/s/h/a MAIN STREET NURSERY, FLORIST AND LANDSCAPING and ROBERT MCKEAN (hereinafter referred to as "Defendants" and "Sherwood"), by their attorneys, MILBER MAKRIS PLOUSADIS & SEIDEN, LLP, hereby offer to allow Judgment to be entered against Defendants in this action as follows:

1. Plaintiff Cesar Moreira asserts claims for unpaid overtime wages, liquidated damages and attorneys' fees and costs;
2. Defendants make this offer more than fourteen (14) days prior to trial;
3. Defendants' offer is unconditional and is made to fully and finally resolve all claims asserted against it in this action;
4. Defendants' offer is made for the purposes specified in Federal Rule of Civil Procedure 68;

5. If plaintiff Moreira does not accept this offer, he may become obligated to pay Defendants' costs and fees, as construed by case law, incurred after the making of this offer;

6. To accept this offer, Plaintiff Moreira must serve written notice of acceptance thereof on counsel for Defendants within fourteen (14) days of the date this offer is made or this offer shall be deemed withdrawn in accordance with Federal Rule of Civil Procedure 68;

7. Defendants' offer will remain open and irrevocable for fourteen (14) days after service on counsel for Plaintiff Moreira;

8. Defendants hereby offer the sum of \$8,000 to satisfy all of Plaintiff Moreira's claims for relief;

9. Defendants hereby additionally offers costs and reasonable attorneys' fees if applicable as determined by the Court;

10. This Offer of Judgment shall not be filed with the Court unless: a) it is accepted; or b) in a proceeding to determine costs and reasonable attorneys' fees as provided in Paragraph 9, above.

Dated: Woodbury, New York
July 24, 2013

MILBER MAKRIS PLOUSADIS
& SEIDEN, LLP

BY:


Elizabeth R. Gorman (ERG-6316)

Attorney for Defendants

SHERWOOD LANDSCAPING INC. d/b/a MAIN
STREET NURSERY i/s/h/a MAIN STREET
NURSERY, FLORIST AND LANDSCAPING
and ROBERT McKEAN

1000 Woodbury Road, Suite 402

Woodbury, New York 11797

(516) 712-4000 – Telephone

(516) 712-4013 – Facsimile

File No.: 420-9668

TO: LAW OFFICES OF DELVIS MELENDEZ, P.C.
Attorneys for Plaintiffs
90 Bradley Street
Brentwood, New York 11717
(631) 434-1443

AFFIDAVIT OF SERVICE VIA REGULAR MAIL & VIA E-MAIL

[illegible]

LISA FRANZINO, sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at Seaford, New York.

That on the 24th day of July, 2013, deponent served the within **OFFER OF JUDGMENT** upon:

LAW OFFICES OF DELVIS MELENDEZ, P.C.
Attorneys for Plaintiffs
90 Bradley Street
Brentwood, New York 11717
(631) 434-1443
delvisprlaw@aol.com

the attorney(s) for the respective parties in this action, at the above address(es) designated by said attorney(s) for that purpose by depositing same enclosed in a postpaid, properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Post Office within the State of New York and via e-mail.

LISA FRANZINO

Sworn to before me this
24th day of July, 2013

Dore M. Ametullah
NOTARY PUBLIC

ANNE M. AMATULLI
Notary Public, State of New York
No. 01AM4713126
Qualified in Nassau County
Commission Expires Sept. 30, 2014